



STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
P.O. Box 11729  
Albany, NY 12211

### Notice of Decision

Decision Date: October 18, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000008492

[REDACTED]

Dear [REDACTED],

On October 12, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health's November 23, 2015 disenrollment notice.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of NY State of Health.

If you have questions about your Decision, you can contact us by:

- Calling the Customer Service Center at 1-855-355-5777
- Sending Mail to:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- Sending a Fax to 1-855-900-5557

When contacting NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification number and the Account ID at the top of this notice.

### Legal Authority

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY - Spanish: 1-877-662-4886).

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## Decision

Decision Date: October 18, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000008492



## Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health (NYSOH) properly determine that you and your daughter's enrollment in your qualified health plan ended effective December 31, 2015?

## Procedural History

On March 24, 2015, NYSOH issued an eligibility determination notice stating that you and your daughter were eligible to purchase a qualified health plan at full cost effective January 1, 2015.

Also on March, 24, 2015, NYSOH issued an enrollment notice confirming your and your daughter's enrollment in a qualified health plan for 2015.

On November 23, 2015 NYSOH issued a disenrollment notice indicating that your and your daughter's coverage in your 2015 qualified health plan would end effective December 31, 2015.

On March 30, 2016 you contacted the NYSOH Account Review Unit and appealed the date you were disenrolled from your qualified health plan, requesting the disenrollment be made effective October 31, 2015.

On October 11, 2016, you had a telephone hearing with a Hearing Officer from the NYSOH's Appeals Unit. The record was developed during the hearing and closed at the end of the proceeding.

## **Findings of Fact**

A review of the record supports the following findings of fact:

- 1) You testified that in September 2015 you were advised by your employer that you and your daughter were eligible to enroll in employer sponsored health insurance effective November 1, 2015.
- 2) You testified that in October 2015 you went to the doctor, and were advised by the doctor's office that your employer sponsored health insurance would not begin until December 1, 2015.
- 3) You testified that in a later conversation with your employer, you were advised that your employer sponsored health insurance had, in fact, gone into effect on November 1, 2015.
- 4) You testified that you contacted your and your daughter's qualified health plan regarding disenrollment, however, they directed you to contact NYSOH directly.
- 5) You testified that on or around November 23, 2015 you contacted NYSOH to disenroll yourself and your daughter from your qualified health plan.
- 6) You testified that at the time of that phone call, an NYSOH representative took down your information and advised that your and your daughter's coverage would end as of October 31, 2015.
- 7) Your NYSOH account reflects that on November 24, 2015 you contacted NYSOH and disenrolled yourself and your daughter from your qualified health plan.
- 8) You testified that you paid a premium for your and your daughter's qualified health plan for November 2015, but not for December 2015.
- 9) You testified that you and your daughter did not use your qualified health plan in November of 2015.
- 10) You testified that you are seeking retro-active disenrollment from your and your daughter's qualified health plan effective October 31, 2015.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

## **Applicable Law and Regulations**

### Termination of a Qualified Health Plan

NYSOH must permit an enrollee to terminate his or her coverage with a qualified health plan coverage, with appropriate notice to the NYSOH or qualified health plan (45 CFR § 155.430(b)(1)(i)).

For enrollee-initiated terminations, the last day of coverage is either:

- 1) The termination date specified by the enrollee, if the enrollee provides reasonable notice (at least 14 days before the requested termination date);
- 2) Fourteen days after the enrollee requests the termination, if they do not provide reasonable notice; or
- 3) On a date on or after the date the enrollee requests the termination, if the enrollee's qualified health plan issuer and the enrollee agree to such a date

(45 CFR § 155.430(d)(2)(i)-(iii)).

NYSOH must permit an enrollee to retroactively terminate or cancel their enrollment in a qualified health plan if:

- 1) The enrollee demonstrates that they attempted to terminate their coverage and experienced a technical error that did not allow the coverage to be terminated, and requests retroactive termination within 60 days after they discovered the technical error.
- 2) The enrollment in the qualified health plan was unintentional, inadvertent, or erroneous and was the result of the error or misconduct of an officer, employee, or agent of NYSOH or HHS, its instrumentalities, or a non-NYSOH entity providing enrollment assistance or conducting enrollment activities. Such enrollee must request cancellation within 60 days of discovering the unintentional, inadvertent, or erroneous enrollment.
- 3) The enrollee was enrolled in a qualified health plan without their knowledge or consent by any third party, including third parties who have no connection with the Exchange, and requests cancellation within 60 days of discovering of the enrollment.

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(45 CFR § 155.430(b)(2)(iv)(A-C)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that your and your daughter's enrollment in your qualified health plan ended effective December 31, 2015.

On March 24, 2015, NYSOH issued an eligibility determination notice stating that you and your daughter were eligible to purchase a qualified health plan at full cost effective January 1, 2015. That same day you enrolled into a qualified health plan for 2015.

On November 23, 2015, NYSOH issue a disenrollment notice indicating you and your daughter would be disenrolled from your 2015 plan effective December 31, 2015.

The record reflects that on November 24, 2015 you contacted NYSOH and requested that you and your daughter be disenrolled from your qualified health plan effective October 31, 2015 as you and your daughter had employer sponsored health insurance effective November 1, 2015.

NYSOH must permit an enrollee to be retroactively disenroll from their qualified health plan if the enrollee demonstrates that there was a technical error that should have allowed them to terminate coverage earlier, or if their enrollment in the plan was unintentional, inadvertent, or erroneous and was the result of the error or misconduct of an officer, employee, or agent of NYSOH, its instrumentalities, or a non-NYSOH entity providing enrollment assistance or conducting enrollment activities, or the enrollee was enrolled into a qualified health plan without their knowledge or consent by a third party.

You testified that your doctor's office advised you that your employer sponsored health insurance would not begin until December 1, 2015. You testified that your reliance on this misinformation is why you delayed in contacting NYSOH to disenroll from your and your daughter's qualified health plan. There is no indication in the record that there was a technical error which prevented you from disenrolling from your plan earlier.

There is no indication in the record that your and your daughter's enrollment in a qualified health plan as confirmed in the March 24, 2015 enrollment notice was unintentional, inadvertent, or erroneous, nor was your enrollment in a qualified health plan the result of the error or misconduct of an officer, employee, or agent of NYSOH, its instrumentalities, or a non-NYSOH entity providing enrollment assistance or conducting enrollment activities. Furthermore, there is no

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indication that your and your daughter's enrollment in a qualified health plan as confirmed in the March 24, 2015 enrollment notice was without your knowledge or consent.

Therefore, there is no basis to find that NYSOH must permit you and your daughter to retroactively terminate or cancel your enrollment in a qualified health plan

You testified that after confirming that your employer sponsored health insurance began on November 1, 2015, you contacted your and your daughter's qualified health plan which directed you to contact NYSOH. The record demonstrates that you contacted NYSOH to disenroll from your and your daughter's qualified health plan on November 24, 2015.

Enrollees must be allowed to terminate their coverage with a qualified health plan at the date they specify if they provide reasonable notice to NYSOH or to their health plan. Reasonable notice is defined as at least 14 days prior to the requested termination date.

NYSOH terminated your insurance coverage with your and your daughter's qualified health plan effective December 31, 2015, which is the last day of the month following your request.

Since you do not qualify to be retroactively disenrolled from your coverage and you did not provide reasonable notice to NYSOH, NYSOH properly determined that your disenrollment in your qualified health plan was effective December 31, 2015.

Therefore, the November 23, 2015, disenrollment notice is AFFIRMED.

## **Decision**

The November 23, 2015 disenrollment notice is AFFIRMED.

**Effective Date of this Decision:** October 18, 2016

## **How this Decision Affects Your Eligibility**

This decision does not change your disenrollment date.

## **If You Disagree with this Decision (Appeal Rights)**

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY – Spanish: 1-877-662-4886).

This Decision is final unless you submit an appeal request to U.S. Department of Health and Human Services or bring a lawsuit under New York Civil Practice Law and Rules, Article 78.

You may bring a lawsuit on any Appeals Unit decision in New York State court in accordance with Article 78 of the New York Civil Practice Law and Rules. This must be done within four months of the Decision Date, which appears on the first page of this Decision.

Additionally, Appeals Unit decisions on issues involving eligibility for qualified health plans, advance premium tax credits, and cost-sharing reductions may be appealed to the U.S. Department of Health and Human Services. This must be done within 30 days of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

If you wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

### **If You Have Questions about this Decision (Customer Service Resources):**

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:  
NY State of Health Appeals  
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Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

The November 23, 2015 disenrollment notice is AFFIRMED.

This decision does not change your disenrollment date.

### **Legal Authority**

We are issuing this determination in accordance with 45 CFR § 155.545.

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**A Copy of this Decision Has Been Provided To:**

